



PROMOTE IMMIGRANT RIGHTS AND JUST REFORMS TO THE IMMIGRATION SYSTEM.

With nearly three-quarters of the over 2.5 million South Asians in the United States being foreign-born, the rights and welfare of immigrants in this country are a top priority for the community.ⁱ **South Asians possess a range of immigration statuses.** The South Asian community includes undocumented immigrants, dependents and temporary workers on various visas, refugees and asylum-seekers, lawful permanent residents, and United States citizens. Unfortunately, **the immigration system and immigration policies have negatively affected many South Asians**, regardless of status. For example, members of the South Asian community have faced obstacles to attaining permanent legal status and citizenship and the impact of various harsh enforcement initiatives. Just and humane reform is necessary to fix the immigration system.

Obtaining and Maintaining Legal Status and Citizenship

Obstacles to Legal Permanent Immigrant Status

The numbers of undocumented South Asian immigrants are steadily on the rise. For example, the estimated undocumented population from India alone increased 125% between 2000 and 2006, jumping from 120,000 to 270,000 in six years.ⁱⁱ In 2000, there were over 17,000 Bangladeshis, 26,000 Pakistanis, and 3,000 Sri Lankans residing in the United States without statusⁱⁱⁱ; these numbers have risen considerably in recent years. Unfortunately, many undocumented immigrants – despite having developed strong ties to the United States, paying taxes, and expressing a desire to obtain permanent legal status – are relegated to the shadows of American society and are often unable to access basic government services and protections. These individuals are unable to apply for legal status due to current immigration laws that bar adjusting to lawful permanent resident status without valid immigration documentation. Policies must be changed so that undocumented immigrants can

become lawful permanent residents and citizens and continue to contribute to society.

Naturalization Recently, various changes in the naturalization process have been implemented by the U.S. Citizenship and Immigration Services (USCIS). In 2007, the fees for naturalization applications, as well as other immigration applications, almost doubled, making citizenship out of reach for many applicants. In addition, the recent surge in naturalization applications immediately prior to the fee increase has hampered USCIS's ability to process applications in a timely manner. Finally, a newly redesigned naturalization exam, to be implemented in October 2008, which includes many difficult questions about civics and U.S. history, will likely pose challenges for many elderly and limited English proficient (LEP) applicants.

Immigration Application Processing Delays due to Security Background Checks All immigration applications must undergo various security background checks – including clearance through

the Interagency Border Inspection System (IBIS), Federal Bureau of Investigation (FBI) fingerprint databases, and the FBI National Name Check Program – before they are approved. Yet, as a result of the FBI name check process in particular, many individuals have had their immigration applications delayed. In fact, in May 2007, USCIS reported over 300,000 FBI name check cases pending.^{iv} Many South Asians have had their applications held up for months or even years while these name checks are being completed.^v While USCIS and the FBI took promising measures in 2008 to improve the processing times for green card and naturalization applicants facing delays, many South Asians continue to await immigration benefits for which they are eligible.

Family Reunification

Family-based Visa Backlogs

With almost 22,000 individuals entering through a family category in 2006, South Asians heavily use family-based immigration visas.^{vi} Yet, some South Asians who are currently being sponsored by U.S. citizen siblings have to wait nearly eleven years before obtaining green cards; others, in particular, green card holders, are waiting to be reunited with even spouses and children.^{vii} These separations are especially difficult for newer immigrants who do not have family in the United States for support if they come upon hard times. Reasons for these delays include the backlog of applications processed by USCIS and insufficient numbers of visas for certain family preference categories.

Immigration Benefits for LGBTIQ Immigrant Couples Immigrant families with lesbian, gay, bisexual, intersex, transgender, and gender non-conforming (LGBTIQ) members face unique challenges. Current immigration policies deny many families headed by same-sex couples the rights to which heterosexual couples are entitled.

For example, because the United States does not recognize committed relationships between same-sex partners as legal “marriages” or “families” under federal law and immigration regulations, these individuals are excluded from numerous family-based immigration benefits. As a result,

many same-sex binational couples have no choice but to make significant sacrifices. These hardships include maintaining long-distance relationships across national boundaries; making frequent and expensive trips to visit a partner abroad; resorting to living in exile outside the United States; or overstaying visas.^{viii}

Immigrant Worker Issues

Guestworker Issues Many skilled workers entering the United States on H-2B visas (temporary visas for nonagricultural workers), suffer abuses at the hands of their employers but have difficulty escaping exploitation due to the terms of their visas. Under the H-2B visa program, workers are forced to lose their immigration status if they leave or change their employer. As a result, many exploited workers are left with little choice but to remain in abusive work environments.

Exploitation often occurs undetected due to the lack of labor law enforcement over this visa program. Contract and wage violations are rampant because the Department of Labor lacks the legal authority to enforce prevailing wage requirements under the visa or employer-employee contracts.^{ix} Further exacerbating the situation are high fees that recruiters, contractors, and employers charge these workers in order to gain access to these jobs.^x This forces many H-2B workers into serious debts that they must repay by taking out high interest

loans or selling their homes in their countries of origin.^{xi}

The H-2B guestworker program has had devastating consequences for many South Asians. In 2007, over 500 Indian pipefitters and welders were brought to the Gulf Coast on H-2B visas, after paying a lifetime’s worth of earnings to recruiters, being imprisoned by their employer, and being threatened with deportation. Due to the terms of their temporary visas, they could not leave their jobs or change employers without losing their immigration status.

H-1B Visa Issues The H-1B visa program is heavily used by skilled immigrants from South Asia in certain specialty occupations. Of the 240,000

DID YOU KNOW?

With almost 22,000 individuals entering through a family category in 2006, South Asians heavily use family-based immigration visas. Yet, some South Asians who are currently being sponsored by citizen siblings have to wait nearly eleven years before obtaining green cards; others, in particular, green card holders, are waiting to be reunited with spouses and children. These separations are especially difficult for newer immigrants who do not have a support network in the United States.

South Asians on temporary work-related visas in 2006, over 130,000 H-1B were visaholders and their dependents. Yet, numerous challenges exist for this class of workers. Severe caps, set at 65,000 per year, placed on these visas make it difficult for South Asians to come to the United States under this category. In fact, in recent years, the annual cap for H-1B visas has been filled in a mere few days after the filing deadline. H-1B workers also find it nearly impossible for them to change jobs and advance in their professional careers due to limitations on the portability of their visas.

Employment-based Visa Backlogs South Asians rely upon employment-based immigration, as evidenced by the 21,000 South Asians entering the country and obtaining green cards through employment-based categories in 2006.^{xii} While these immigrants come here to improve their lives and contribute their skills to the U.S. economy, many are hampered by restrictions imposed upon them through the immigration system. For example, severe caps placed on employment-based visas make it difficult for South Asians to come to the United States to fill jobs. In addition, many wait years to adjust their status to lawful permanent residents and obtain their green cards due to the backlog of applications being processed by USCIS.

Immigration Enforcement at the Workplace The escalation of "interior enforcement" of immigration laws by the Department of Homeland Security (DHS) at worksites have negatively affected the South Asian community, disrupted local businesses, and resulted in the separation of many families with mixed immigration statuses. Workplace raids are ineffective at fixing our country's broken immigration system and instead criminalize workers who are merely seeking financial security and better lives for themselves and their families.

Employment Verification Programs Aimed at Immigrant Workers Existing and proposed electronic employment verification systems have had a detrimental impact upon all workers, regardless of immigration status. One concern is their reliance on government databases with high error rates; in fact, the Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status, with 12.7 million of those records involving U.S. citizens.^{xiii} Due to database errors, foreign-born lawful workers are 30 times more likely than native-born U.S. citizens to be incorrectly identified as unauthorized for employment.^{xiv} Another concern is that employers may misuse the verification process and unjustly

fire immigrant workers.^{xv} Evaluations of existing employment verification programs have shown that many employers engage in prohibited employment practices, including pre-employment screening, adverse employment action without confirmation of a worker's immigration status, and failure to inform workers of their rights.^{xvi}

Immigration Concerns for Women

Immigration Concerns for Survivors of Domestic Violence For women trapped in abusive marriages, securing their stay in the United States can be challenging because maintaining immigration status sometimes requires cooperation from the abusive spouse. This forces many to choose between remaining in a violent marriage and losing their immigration status. While various forms of relief – such as the *Violence Against Women Act (VAWA)*, the U-visa, and cancellation of removal – exist to assist immigrant domestic violence survivors, these avenues are often blocked for many women because of arduous requirements under the law.

For example, VAWA establishes a process of self-petitioning for permanent immigration status that helps abused spouses of U.S. citizens or green card holders to obtain immigration status without the assistance of an abusive spouse. However, abused spouses on temporary dependent visas cannot receive permanent immigration status under VAWA's regulations. The U-visa is another channel used by South Asian domestic violence survivors who have suffered mental and physical abuse; however, it is only granted to those able to provide information useful to certain criminal prosecutions. Such requirements make it difficult for many South Asian women to acquire this visa, particularly if they are hesitant to pursue prosecution or work with law enforcement.

Undocumented survivors of domestic violence face unique hurdles to legal immigration status. These women can pursue a form of relief known as "cancellation of removal" in immigration court. However, the burden of proof requires that they demonstrate an "exceptional and extremely unusual hardship" to herself or to her U.S. citizen or lawful permanent resident child or parent if she were deported. However, many undocumented South Asian women do not have such relatives in order to be eligible for such relief. Furthermore some applicants may have to obtain documentation that is within an abusive spouse's sole control to obtain such relief. These requirements impose a serious burden on many South Asian women and prevent many from winning their deportation cases.

Obstacles to Employment Authorization for H-4 Visa Holders The H-1B visa program for workers employed in “specialty occupations” is heavily used by South Asians entering the United States. In fact, over 130,000 South Asian H-1B workers and their dependents came to the country in 2006.^{xvii} Yet spouses of H-1B workers who enter the United States on H-4 visas suffer from various restrictions under immigration law. Under the terms of their visas, many dependents are currently unable to work, gain public benefits, or receive a social security number; in some states, it is difficult to even get a driver’s license without spousal consent. As a result, many women are prevented from progressing in their careers and becoming self-sufficient as they await their green cards.

These problems are magnified for H-4 visa holders in abusive marriages. Due to their inability to work and become financially independent, many of these women fell trapped in these relationships.^{xviii} While some provisions are in place to allow abused H-4 visaholders to self-petition and gain work authorization under VAWA when it was reauthorized in 2005, only interim regulations have been passed. Because final regulations have yet to be implemented, many South Asian H-4 visaholders are reluctant to step forward as survivors of violence without the assurance that they will be able to work.

Enforcement Initiatives

Special Registration In recent years, the federal government has established immigration enforcement programs under the guise of national security that have, in reality, led to profiling of immigrant communities. An example is the “special registration” program under the National Security Exit-Entry Registration System (NSEERS), a program instituted by the Department of Justice following 9/11 that required certain male nationals from predominantly Muslim and Arab countries to report to immigration authorities for interviews and processing. As a result, many individuals within the South Asian community were deported. While the initial phase of this program is over, many South Asian and Muslim immigrants are still required to

continually register with the government or face serious immigration consequences.

Expanded Grounds for Deportation and Limited Access to Relief Since the passage of various pieces of legislation in 1996, the breadth of reasons for deporting immigrants from the United States has significantly expanded. Immigrants who are found guilty of “aggravated felonies” under immigration law could be deported (aggravated felonies include various minor offenses and misdemeanors). The consequences of deportation are especially dire for aggravated felons as they may never return to the United States once ordered deported. Even immigrants who have received suspended sentences or have entered into plea agreements with prosecutors can be subjected to deportation proceedings. The situation for many immigrants has been worsened due to the retroactive nature of many of these laws, rendering them deportable.

In addition, avenues of relief from deportation have been significantly reduced. There are no waivers exempting those classified as aggravated felons from deportation, unlike many other immigrants. Furthermore, due to immigration laws, immigration judges are unable to consider the hardship imposed upon U.S. citizen or lawful permanent resident family members who would be affected by an individual’s deportation. Such immigrants are also ineligible for seeking other forms of immigration relief, such as asylum and withholding of removal.

In addition, LGBTIQ citizens and lawful permanent residents are prevented from assisting partners who may be facing deportation. Due to legal provisions prohibiting same-sex partners from qualifying as family members, these individuals are unable to support applications for bond (release from immigration detention) or cancellation of removal, both of which can be influenced by familial ties.

Information-sharing between Criminal and Immigration Databases Recently, government agencies are increasingly entering immigration-related information, including suspected violations of immigration law, about individuals into state or

DID YOU KNOW?

Special registration was an immigration enforcement tool that targeted Pakistani and Bangladeshi communities nationwide. Individuals who were unaware of the registration requirement and failed to register, as well as those who complied with registration but were found to lack immigration status, were placed into deportation proceedings. When special registration was completed, 13,000 of the nearly 83,000 men who complied with the program were set to be removed from the United States. *The Continuing Impact of the Special Registration Program*, South Asian Americans Leading Together (2005).

federal databases. These databases, such as the National Crime Information Center (NCIC) database, are often shared by local and federal law enforcement. In late 2001, the Departments of Justice and Homeland Security began entering certain categories of immigration violators into the NCIC database, including individuals who were apprehended through the special registration program that targeted many South Asian and Muslim immigrants. This practice is problematic because it often includes individuals suspected of committing civil (non-criminal) violations in criminal databases. In addition, serious concerns related to reliability of information collected in the databases have arisen.

State and Local Policies Curtailing the Rights of Immigrants State and local law enforcement agencies are increasingly being given the authority to enforce federal immigration laws and turn over those suspected of being undocumented to immigration authorities. This has occurred in many jurisdictions with significant South Asian populations. As a result of such policies, many South Asian immigrants, including hate crime and domestic violence survivors, are hesitant to reach out to local law enforcement for assistance out of fear that they may be investigated, arrested, or placed in deportation proceedings.

Accessing Services and Benefits

Benefits and Services Provided by State Governments Many areas with concentrated or emerging South Asian populations – including Georgia, Michigan, New Jersey, and Virginia – have considered or have already implemented policies that would negatively affect immigrants. Examples of such initiatives include prohibiting housing rentals to undocumented immigrants, mandating English-only curricula in public schools, and denying drivers' licenses to undocumented immigrants.

Even policies at the federal level are having an impact on how states distribute services to immigrants. For example, the *REAL ID Act* mandates national standards for state-issued identification, such as drivers' licenses. When *REAL ID* requirements are implemented, states will only be able to grant such licenses after verifying the lawful immigration status of an applicant. Moreover, undocumented immigrants will have no access to state-issued identification or a driver's license while in the United States. Such policies will create bureaucratic delays at driver's license agencies as employees make complicated

judgments about an applicant's immigration status. In addition, such policies will also make it increasingly difficult for many immigrants to access basic benefits and services that require a form of state identification. Furthermore, these policies will severely diminish public safety, as individuals will be forced to drive without a license in order to commute to work and school.

Benefits and Services Provided by the Federal Government Access to many forms of federally-provided benefits and services, such as welfare, federally-subsidized loans, and state-sponsored medical coverage, hinges upon an individual's legal immigration status. In the realm of health coverage, for example, immigrant children who arrived in the United States after August 22, 1996, are required to wait five years before becoming eligible for various federal health coverage programs (including Medicaid and SCHIP). This leaves many legal immigrants without insurance, preventative care, and illness treatment. Moreover, undocumented immigrants are entirely ineligible for Medicare or Medicaid, making it nearly impossible for them to obtain any health coverage and health care.

Immigration Issues in Detention and Courts

Detention Issues The expansion of mandatory and indefinite detention of immigrants has been a major concern for the South Asian community. Following 9/11, the FBI began to indefinitely detain individuals, many of whom were of South Asian descent.^{xix} Detention often results in families being torn apart; harassment and mistreatment of detainees; insufficient accommodations for religious attire, dietary restrictions, and practices; inadequate health care; and limited access to legal assistance.

South Asian immigrants have also been increasingly subjected to harassment by immigration officials while in immigration detention, particularly after 9/11. Sikh and Muslim detainees have reported being unable to practice their faiths or wear religious attire while in detention. For LGBTIQ and HIV-positive South Asian detainees, many endure mistreatment because of their illness, sexual orientation and/or gender identity. Transgender immigrant detainees face various hardships, including being placed in gender-segregated facilities that do not conform to their own gender identity and frequently being denied medically necessary hormone therapy.^{xx}

Denial of Due Process Due process rights – such as the right to challenge one's detention or imprisonment (also known as *habeas corpus*), the

right to counsel, and the right to access to evidence – have been significantly eroded in recent years. South Asian immigrants have had their due process rights severely curtailed, particularly following 9/11, whether as a result of special registration, secret immigration hearings, or increased detention. Many of these individuals were effectively denied the right to be informed of the charges against them and to receive a neutral and speedy hearing. Hundreds were also subjected to secret immigration hearings that were closed to the public.^{xxi} The *REAL ID Act*, in particular, significantly limits the due process rights of immigrants by denying those ordered deported or who have received adverse decisions on their immigration applications the right to challenge the decision in federal district courts.

Obstacles to Obtaining Asylum Relief Many South Asians regularly petition for asylum relief or come to the United States as refugees. In fact, nearly 1,500 individuals of South Asian descent were granted asylum in 2006 alone.^{xxii} Yet current standards regarding the adjudication of asylum applications are neither uniform nor consistent. In fact, due to the discretion given to individual adjudicators, there are significant disparities in asylum cases.^{xxiii}

Moreover, there have been several cases of South Asian asylum applicants being denied relief in immigration courts due to cultural and linguistic barriers.^{xxiv} Immigration judges who are not culturally sensitive have erroneously concluded that an applicant is not credible based on an incorrectly translated statement or a statement taken out of cultural context. Asylum claims from South Asian applicants have also been denied based on an immigration judge's failure to provide meaningful hearings.^{xxv}

In addition, while persecution on account of gender and sexual orientation is being raised by many South Asians in asylum applications, asylum is often difficult to gain on these grounds.

KEY RECOMMENDATIONS

Ensure a just and humane approach to reforming the immigration system at the federal level.

Congress must consider and enact immigration reform that includes all of the following:

- Elimination of visa backlogs and increase of visa caps in the family and employment contexts
- A path to legalization and citizenship for undocumented immigrants that allows individuals to adjust their status without incurring burdensome fines.
- Strong worker protections and paths to residency for temporary skilled and unskilled workers
- Access to services and benefits regardless of immigration status
- Preservation of due process rights in the immigration system

Expedite immigration application background checks related to security-related delays.

- USCIS and FBI should ensure that security background checks for all immigration applications are conducted quickly and transparently.
- USCIS and FBI should ensure that immigration applications are not delayed or denied solely due to an applicant's national origin or religious affiliation.
- USCIS should establish more processing facilities in order to quickly adjudicate applications awaiting security background checks.

Ensure the naturalization process is accessible to all eligible immigrants.

- USCIS should decrease the fees for naturalization, as well as other immigration applications, and ensure that any fee increases are not prohibitively expensive.
- USCIS should develop a culturally and linguistically accessible outreach plan regarding current and prospective changes in naturalization procedures.

Ensure that the immigration system promotes the reunification of families.

- USCIS should eliminate the current backlog of family-based visa applications.
- Congress should raise the number of family-based visas granted annually.
- Congress should amend immigration law to permit U.S. citizens and lawful permanent residents in binational same-sex relationships to sponsor foreign-born partners for the same

immigration benefits that heterosexual married couples receive.

Support immigration policies that protect the rights of immigrant workers.

- Congress should amend immigration law to allow workers on temporary visas greater ability to be able to change employers or jobs without losing their immigration status.
- Congress should amend immigration law to allow the Department of Labor to enforce contracts and monitor workplace conditions for H-2B visa holders.
- USCIS should eliminate the current backlog of employment-based visa applications.
- Congress should raise the number of employment-based and H-1B visas granted annually.
- Immigration and Customs Enforcement (ICE) should terminate enforcement strategies that target immigrant workers and allow for racial profiling.
- ICE should ensure that enforcement initiatives do not separate immigrant workers from their families.
- The Department of Homeland Security should ensure that employment verification programs do not lead to unjust terminations and racial profiling of immigrant workers by employers.

Support immigration policies that protect and empower domestic violence survivors.

- Congress should amend immigration law to allow all domestic violence survivors who are undocumented or on dependent visas to be eligible for permanent immigration status through the self-petitioning process under VAWA.
- Congress should study the impact of the requirement for applicants of U-visas to cooperate with the arrest and prosecution of an abusive spouse.
- The Department of Justice should increase funding for all VAWA-funded organizations to provide assistance for domestic violence survivors with the self-petitioning process.
- The Department of Justice should increase funding for organizations serving South Asian women to receive training on forms of relief for survivors of abuse and trafficking.

Support immigration policies that protect and empower dependent visa holders.

- The Department of Homeland Security should implement final regulations allowing all dependent visaholders to gain employment authorization.

- The Department of Homeland Security should not require dependent visa holders who are seeking to change their status to submit any documents to which only a spouse has access.
- The Department of Justice should increase funding for organizations serving South Asian women to receive training on dependent visa issues.

Cease enforcement initiatives and national security measures that disproportionately affect immigrants and promote profiling.

- Congress should completely terminate the special registration program, including exit interviews and address change reporting requirements.
- Congress and the Department of Homeland Security should ensure future immigration enforcement and national security initiatives are not selectively enforced against certain communities on the basis of race, religion, national origin, or ethnicity.

Ensure that immigrants are not deported from the United States for minor violations of the law.

- Congress should amend immigration law so that immigrants who have committed minor non-violent offenses are not subject to deportation.
- Congress should amend immigration law to ensure that immigrants who are not a danger to the community may be able to pursue asylum and other related forms of relief for those fleeing persecution in their countries of origin.
- Congress should amend immigration law to ensure that offenses labeled as deportable are not retroactive.
- Congress should amend immigration laws to allow state and federal criminal judges to make recommendations against deportation.
- Congress and state legislatures should mandate that criminal defense attorneys undergo trainings regarding the immigration consequences of criminal convictions and plea agreements.
- ICE and the Office of Immigration Statistics within the Department of Homeland Security should publish statistics tabulating the numbers of countries of origin of immigrants deported from the United States on the basis of criminal convictions.

Cease sharing information among various law enforcement agencies for immigration purposes.

- Congress should terminate programs with a discriminatory impact that allow information-sharing among various immigration and criminal databases shown to be inaccurate.

- Congress should ensure that criminal databases comply with accuracy requirements under the *Privacy Act*.

Oppose policies denying public services to non-citizens or permitting state and local law enforcement to carry out federal immigration law.

- State and local governments should not promote policies that restrict eligibility for public benefits based on immigration status.
- Congress should repeal the *REAL ID Act* which mandates states to verify the immigration status of state identification applicants and denies drivers' licenses to undocumented immigrants.
- State and local law enforcement agencies should promote community-oriented policing programs that foster relationships based on trust between immigrant communities and law enforcement.
- ICE should end collaboration between its enforcement agencies and local, county, and state police departments.

Ensure compliance of immigration detention standards and provide alternatives to immigration detention.

- ICE should uphold its own internal standards governing immigrant detention, including those pertaining to access to legal counsel, religious accommodation, access to health care, and linguistically accessible services.
- ICE should institute cultural competency trainings for detention facility personnel on the needs of South Asian detainees.
- Congress should eliminate mandatory and indefinite detention of immigrants.
- Congress should study, implement, and fund alternatives to immigration detention.
- Congress should amend immigration law to ensure that same-sex family ties are treated the same as heterosexual relationships for purposes of relief from immigration detention and deportation, including bond and cancellation of removal.

Strengthen due process protections within the immigration system.

- Congress should amend current laws to guarantee a right to a full and fair public hearing for all immigrants.
- Congress should ensure that a detainee held for forty-eight hours without charge is automatically brought before an immigration or federal court to determine the detention's legality.
- Congress should repeal the *REAL ID Act* preventing many immigrants whose immigration applications have been denied or

are in detention from obtaining judicial review in federal district court.

- Congress should terminate the use of secret evidence in court proceedings or provide justification demonstrating the need for conducting all or part of the proceedings in secret.
- Congress should repeal laws that eliminate or weaken the right to *habeas corpus* and other constitutional guarantees.

Standardize the adjudication of asylum-related forms of relief.

- The Executive Office for Immigration Review (EOIR) within the Department of Justice should ensure uniform application of asylum-related forms of relief from deportation across Immigration Courts.
- EOIR should provide trainings for immigration judges on the role of cultural differences and linguistic barriers for South Asian respondents.
- EOIR should improve its internal review process to identify and eliminate bias and incompetence among immigration judges.
- Congress should establish persecution on account of sexual orientation, gender identity, and gender expression as explicitly protected grounds for asylum applicants.
- Congress should eliminate the one-year filing deadline for asylum applicants that prevent many South Asians from seeking relief.

ⁱ Based on figures extrapolated from U.S. Census 2000, Summary Files 1 through 4.

ⁱⁱ *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2006*, U.S. Department of Homeland Security, Office of Immigration Statistics (2007). Statistics from 2006 for undocumented immigrants from other South Asian countries are not available in this report.

ⁱⁱⁱ *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, U.S. Immigration and Naturalization Service, Office of Policy and Planning.

^{iv} *Americans on Hold: Profiling, Citizenship, and the "War on Terror"*, New York University Law School, Center for Human Rights and Global Justice (2007).

^v *Id.*

^{vi} *2006 Yearbook of Immigration Statistics*, U.S. Department of Homeland Security, Office of Immigration Statistics (November 2007).

^{vii} *Visa Bulletin* U.S. State Department (March 2008)

^{viii} *Family, Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples under U.S. Law*, Human Rights Watch/Immigration Equality (2006).

^{ix} *Close to Slavery: Guestworker Programs in the United States*, Southern Poverty Law Center (2007).

^x *Id.*

^{xi} *Id.*

^{xii} *Id.*

^{xiii} *Congressional Response Report: Accuracy of the Social Security Administration's Numident File*, Office of the Inspector General, Social Security Administration (Dec. 2006).

^{xiv} *Id.*

^{xv} *Transcript from Hearing on Employment Eligibility Verification Systems*, Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives (June 7, 2007).

^{xvi} *Findings of the Web-Based Basic Pilot Evaluation*, Westat, (2007).

^{xvii} *2005 Yearbook of Immigration Statistics*, U.S. Department of Homeland Security, Office of Immigration Statistics (2007).

^{xviii} Shah, S., *Middle Class, Documented, and Helpless in Body Evidence* (2007).

^{xix} The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks, Office of the Inspector General (2003)

^{xx} *HIV and Immigration: The Basics*, Immigration Equality/Lambda Legal (2007); *Queers and Immigration*, Queers for Economic Justice (2007).

^{xxi} See *supra* note xix.

^{xxii} See *supra* note vi.

^{xxiii} *Asylum Disparities Exist Regardless of Court Location and Nationality*, Transactional Records Access Clearinghouse (2007).

^{xxiv} *Singh v. INS*, 292 F.3d 1017 (9th Cir. 2002). See also *Paramasamy v. Ashcroft*, 295 F.3d 1047 (9th Cir. 2002).

^{xxv} *Ahmed v. Gonzalez*, 298 F.3d 722 (6th Cir. 2005). See also *Thangaraja v. Ashcroft*, 107 Fed. Appx. 815 (9th Cir. 2004) *later proceeding at* 428 F.3d 870 (9th Cir. 2005); and *Sahi v. Gonzalez*, 416 F.3d 587 (7th Cir. 2005).